

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-12186-JGD**

Devine v. Stop and Shop Companies, Inc.  
Assigned to: Magistrate Judge Judith G. Dein  
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 10/12/2004  
Date Terminated: 10/12/2007  
Jury Demand: None  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff**

**Christopher M. Devine**

represented by **Christopher M. Devine**  
6 Morgan Road  
Mansfield, MA 02048  
PRO SE

V.

**Defendant**

**Stop and Shop Companies, Inc.**

represented by **Daniel B. Klein**  
Seyfarth Shaw, LLP  
Two Seaport Lane  
Suite 300  
Boston, MA 02210  
617-946-4800  
Fax: 617-946-4801  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Catherine V. Meek**  
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*ATTORNEY TO BE NOTICED*

**Mediator**

**Mag. Judge Joyce London Alexander**  
TERMINATED: 12/01/2006

Date Filed	#	Docket Text

10/12/2004	• 1	Case received for filing without payment of the filing fee or submission of an application to waive the filing fee. (Jenness, Susan) (Entered: 10/19/2004)
10/12/2004	• 1	Miscellaneous documentation filed by the plaintiff (Jenness, Susan) (Entered: 10/19/2004)
10/12/2004	• 1	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Jenness, Susan) (Entered: 10/19/2004)
10/21/2004	• 2	Judge Nancy Gertner : MEMORANDUM AND ORDER entered. Plaintiff's claims are subject to dismissal without prejudice without further notice under 28 U.S.C. s. 1915(e)(2) within thirty-five (35) days of the date of this Memorandum and Order unless before that time plaintiff either pays the filing fee or submits an application to proceed without prepayment of fees and demonstrates good cause why this action should not be dismissed for the reasons stated above. The Clerk shall send plaintiff an Application to Proceed Without Prepayment of Fees. (Weissman, Linn) (Entered: 10/25/2004)
10/21/2004	• 1	Set Deadlines/Hearings: Payment of \$150.00 filing fee or submission of application to proceed without prepayment of fees and Show Cause Response due by 11/25/2004. (Weissman, Linn) Modified on 10/25/2004 (Weissman, Linn). (Entered: 10/25/2004)
11/09/2004	• 3	MOTION for Leave to Proceed in forma pauperis by Christopher M. Devine.(Jenness, Susan) (Entered: 11/17/2004)
12/01/2004	• 4	Judge Nancy Gertner : ORDER OF DISMISSAL entered: [Summary of Order: #3 MOTION for Leave to Proceed in forma pauperis filed by Christopher M. Devine is Allowed. For the reasons previously set forth in the October 21, 2004 Memorandum and Order, and for Plaintiff's failure to show cause, it is hereby Ordered that the above entitled action is hereby ordered Dismissed in its entirety. This dismissal is without prejudice.](Greenberg, Rebecca) (Entered: 12/01/2004)
03/23/2005	• 5	Letter/request (non-motion) from Christopher Devine to Judge Gertner re: request to reopen case. (Filo, Jennifer) (Entered: 03/23/2005)
04/06/2005	• 6	Letter/request (non-motion) from Chris Devine. (Attachments: # 1 Exhibit)(Filo, Jennifer) (Entered: 04/20/2005)
04/18/2005	• 7	Judge Nancy Gertner : MEMORANDUM AND ORDER entered: 1. Plaintiff's Motion for Recusal and reassignment is Denied; 2. Plaintiff's Motion for Appointment of Counsel is Denied without prejudice; 3. Plaintiff's Motion to Reopen (Docket #5) is Allowed. 4. A summons shall issue to Plaintiff for service on the defendant. Plaintiff is directed to provide the United States Marshal's Office with all requisite information to enable that office to effectuate service on the defendant. The United States Marshal's Office shall bear all costs of service on the defendant, however, it is the Plaintiff's responsibility to ensure timely service, in compliance with Federal Rules of Civil Procedure 4, and this Court's

		Local Rules.(Greenberg, Rebecca) (Entered: 04/21/2005)
04/21/2005	●	Case Reopened (See Memorandum and Order #7). (Greenberg, Rebecca) (Entered: 04/21/2005)
04/21/2005	●	Summons Issued as to Stop and Shop Companies, Inc.. (Greenberg, Rebecca) (Entered: 04/21/2005)
05/02/2005	● 8	Response to the Dismissal from the Mass. commission against discrimination by Christopher M. Devine. (Filo, Jennifer) (Entered: 05/03/2005)
07/28/2005	● 9	COMPLAINT against Stop and Shop Companies, Inc. , filed by Christopher M. Devine.(Filo, Jennifer) (Entered: 08/03/2005)
08/23/2005	● 10	Letter (status report) from Christopher Devine. (Filo, Jennifer) (Entered: 09/09/2005)
09/08/2005	● 11	US Marshal Process Receipt and Return for Complaint. Stop & Shop Companies Inc. served Delivered on 9/6/05 (Filo, Jennifer) (Entered: 09/12/2005)
09/26/2005	● 12	DEFENDANT'S ANSWER to Complaint by Stop and Shop Companies, Inc..(Klein, Daniel) (Entered: 09/26/2005)
11/23/2005	● 13	NOTICE of Scheduling Conference. Scheduling Conference set for 12/15/2005 at 3:30 PM in Courtroom 2 before Judge Nancy Gertner. (Filo, Jennifer) (Entered: 11/23/2005)
12/05/2005	●	Mailed copy of Local Rules to Christopher Devine at address listed on docket sheet in response to his telephone inquiry to pro se intake clerk regarding compliance with Local Rule 16.1 (Jenness, Susan) (Entered: 12/05/2005)
12/14/2005	● 14	JOINT STATEMENT of counsel <i>PURSUANT TO LOCAL RULE 16.1 (D)</i> . (Attachments: # 1 Attachment)(Klein, Daniel) (Entered: 12/14/2005)
12/15/2005	●	Electronic clerk's notes for proceedings held before Judge Nancy Gertner: Scheduling conference was not held on 12/15/2005; Counsel for the deft. was present; Pltf. (pro-se) did not appear; The court rescheduled the scheduling conference for 2/2/2005 at 3:00 PM in Courtroom 2 before Judge Nancy Gertner. (Court Reporter None.) (Filo, Jennifer) (Entered: 12/16/2005)
12/15/2005	●	ELECTRONIC NOTICE of Hearing: Scheduling Conference is reset for 2/2/2006 at 3:00 PM in Courtroom 2 before Judge Nancy Gertner. (Filo, Jennifer) (Entered: 12/16/2005)
01/12/2006	● 15	Letter/request (non-motion) from Christopher Devine to Judge Gertner. (Filo, Jennifer) (Entered: 01/20/2006)
02/01/2006	● 16	CORPORATE DISCLOSURE STATEMENT by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 02/01/2006)
02/01/2006	● 17	CERTIFICATE OF CONSULTATION ( <i>DEFENDANT'S LOCAL RULE</i>

		16.1 CERTIFICATION) by Daniel B. Klein on behalf of Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 02/01/2006)
02/01/2006	18	AMENDED ANSWER to Complaint by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 02/01/2006)
02/02/2006	19	Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner : Scheduling Conference held on 2/2/2006. Joint Statement Amended as follows:Fact Discovery 5/31/06; Disclosure of experts 6/30/06; disclosure rebuttal experts 7/31/06; completion expert discovery 9/28/06; dispositive mtgs 10/30/06; (Court Reporter none.) (Molloy, Maryellen) (Entered: 02/06/2006)
08/01/2006	20	MOTION to upgrade demand of suit by Christopher M. Devine.(Filo, Jennifer) (Entered: 08/15/2006)
10/10/2006	21	Letter/request (non-motion) from Daniel B. Klein to clerk re: request for status conference to discuss court-facilitated mediation. (Filo, Jennifer) (Entered: 10/10/2006)
10/25/2006	22	Remark: Parties agree to mediation, clerk will refer matter to mediation program forthwith. All deadlines stayed until mediation is resolved. (Molloy, Maryellen) (Entered: 10/25/2006)
10/25/2006	23	Letter/request (non-motion) from Christopher Devine to Judge Gertner. (Filo, Jennifer) (Entered: 10/26/2006)
10/26/2006	24	Judge Nancy Gertner : ORDER REFERRING CASE to Alternative Dispute Resolution entered.(Filo, Jennifer) (Entered: 10/26/2006)
10/27/2006	25	ELECTRONIC NOTICE of assignment to ADR Provider. U.S. Magistrate Judge Joyce London Alexander appointed. The Court will contact counsel with regard to scheduling. (Franklin, Yvonne) (Entered: 10/27/2006)
10/31/2006	26	NOTICE of ADR Conference Alternative Dispute Resolution Hearing set for 12/1/2006 10:30 AM in Courtroom 24 before Magistrate Judge Joyce London Alexander.(Lovett, Jarrett) (Entered: 10/31/2006)
12/01/2006	27	REPORT of Alternative Dispute Resolution Provider (Lovett, Jarrett) Additional attachment(s) added on 12/1/2006 (Lovett, Jarrett). (Entered: 12/01/2006)
12/01/2006	28	Ex Parte MOTION for Temporary Restraining Order ( <i>EMERGENCY</i> ) by Stop and Shop Companies, Inc..(Klein, Daniel) (Entered: 12/01/2006)
12/01/2006	29	MEMORANDUM in Support re <u>25</u> Ex Parte MOTION for Temporary Restraining Order ( <i>EMERGENCY</i> ) filed by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 12/01/2006)
12/01/2006	30	AFFIDAVIT in Support re <u>25</u> Ex Parte MOTION for Temporary Restraining Order ( <i>EMERGENCY</i> ), <u>26</u> Memorandum in Support of Motion. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C)(Klein, Daniel) (Entered: 12/01/2006)

12/04/2006	• 28	AFFIDAVIT in Support re 25 Ex Parte MOTION for Temporary Restraining Order ( <i>EMERGENCY</i> ), 26 Memorandum in Support of Motion ( <i>PLEASE REPLACE DOCKET ENTRY 27 WITH THIS AFFIDAVIT - CORRECTIONS MADE TO EXHIBITS</i> ). (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C)(Klein, Daniel) (Entered: 12/04/2006)
12/04/2006	• 29	MOTION for Sanctions ( <i>Defendant's Motion for Terminating Sanctions</i> ) by Stop and Shop Companies, Inc..(Klein, Daniel) (Entered: 12/04/2006)
12/04/2006	• 30	MEMORANDUM in Support re 29 MOTION for Sanctions ( <i>Defendant's Motion for Terminating Sanctions</i> ) filed by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 12/04/2006)
12/04/2006	• 31	AFFIDAVIT in Support re 30 Memorandum in Support of Motion, 29 MOTION for Sanctions ( <i>Defendant's Motion for Terminating Sanctions</i> ). (Klein, Daniel) (Entered: 12/04/2006)
12/05/2006	•	Judge Nancy Gertner : Electronic ORDER entered granting 25 Motion for TRO. (Filo, Jennifer) (Entered: 12/05/2006)
12/05/2006	• 32	Judge Nancy Gertner : TEMPORARY RESTRAINING ORDER entered. (Filo, Jennifer) (Entered: 12/05/2006)
12/06/2006	• 33	MOTION for Preliminary Injunction by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 12/06/2006)
12/07/2006	•	NOTICE of Change of Address by Christopher M. Devine by telephone message. Clerk received a telephone message on this date at 11:43 AM requesting a change of address on the docket to: PO Box 782, Mansfield, MA 02048. Clerk will resend the TRO to this address. (Filo, Jennifer) (Entered: 12/07/2006)
12/12/2006	•	ELECTRONIC NOTICE of Hearing on Motion 33 MOTION for Preliminary Injunction. Motion Hearing set for 12/18/2006 at 2:30 PM in Courtroom 2 before Judge Nancy Gertner. (Filo, Jennifer) (Entered: 12/12/2006)
12/12/2006	• 34	Response to Defendants Mediation Position Memoranda by Christopher M. Devine. (Filo, Jennifer) (Entered: 12/12/2006)
12/13/2006	• 35	Letter/request (non-motion) from Christopher Devine to Judge Gertner. (Filo, Jennifer) (Entered: 12/13/2006)
12/14/2006	•	CERTIFICATE OF SERVICE by Stop and Shop Companies, Inc. re 32 Temporary Restraining Order with service on 12/6/2006. (Filo, Jennifer) (Entered: 12/18/2006)
12/18/2006	•	Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner : Status Conference held on 12/18/2006. Ordered: no sanctions, and Mr. Devine shall refrain from making any more threatening telephone calls. Discovery has been completed and defense would like to proceed to trial. Parties shall report to the court by 12/27/06 on whether or not they would proceed to trial by Magistrate Judge. Parties shall also inform the

		court on the issue of jury/ jury waived trial. Further Status Conference set for 12/27/2006 02:30 PM in Courtroom 2 before Judge Nancy Gertner. Parties may participate by telephone. (Court Reporter O'Hara.) (Molloy, Maryellen) (Entered: 12/19/2006)
12/19/2006	36	Letter/request (non-motion) from Plaintiff to Judge Gertner. (Filo, Jennifer) (Entered: 12/19/2006)
12/27/2006	37	Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner: Status Conference (by telephone) held on 12/27/2006; Christopher Devine, pro-se and Daniel Klein for the deft.; Parties agree to a bench trial before Magistrate Judge Dein; Pltf. provides the court with a new address as follows: 6 Morgan Road, Mansfield, MA 02048; The clerk will issue a Notice of Consent, and Order of Reference-Exercise of Jurisdiction by a US Magistrate Judge form to parties. (Filo, Jennifer) (Entered: 12/27/2006)
12/27/2006	38	ELECTRONIC NOTICE of Change of Address by Christopher M. Devine by telephone. (Filo, Jennifer) (Entered: 12/27/2006)
01/08/2007	39	CONSENT to Jurisdiction by US Magistrate Judge by Christopher M. Devine, Stop and Shop Companies, Inc... (Filo, Jennifer) (Entered: 01/08/2007)
01/25/2007	40	Judge Nancy Gertner: ORDER entered; Case reassigned to Magistrate Judge Judith G. Dein for all purposes, including trial and entry of final judgment. Judge Nancy Gertner no longer assigned to the case.(Filo, Jennifer) (Entered: 01/25/2007)
01/25/2007	41	Judge Nancy Gertner : Electronic ORDER entered denying 29 Motion for Sanctions, denying 33 Motion for Preliminary Injunction. These motions were resolved at the hearing held on 12/6/2006. (Filo, Jennifer) (Entered: 01/25/2007)
01/30/2007	42	ELECTRONIC NOTICE of Hearing : Status Conference set for 3/7/2007 02:45 PM in Courtroom 15 before Magistrate Judge Judith G. Dein. (Dambrosio, Jolyne) (Entered: 01/30/2007)
01/30/2007	43	Judge Judith G. Dein : Electronic ORDER entered regarding 19 Plaintiff's Motion to Upgrade Demand of Suit. The Motion will be deemed a motion to amend the complaint and is granted. The amendment does not require further response by the defendant. (Dambrosio, Jolyne) (Entered: 01/30/2007)
02/14/2007	44	37 Letter/request (non-motion) from Plaintiff. (Dambrosio, Jolyne) Modified on 2/27/2007 to change date of filing. (Dambrosio, Jolyne). (Entered: 02/27/2007)
02/22/2007	45	38 Letter/request (non-motion) from Plaintiff. (Dambrosio, Jolyne) (Entered: 02/27/2007)
03/07/2007	46	39 Judge Judith G. Dein : PROCEDURAL ORDER re trial entered. Bench Trial set for 4/9/2007 and 4/13/07 10:00AM-4:00PM in Courtroom 15 before Magistrate Judge Judith G. Dein.(Dambrosio, Jolyne) (Entered:

		03/08/2007)
03/07/2007	• 39	Clerk's Notes for proceedings held before Judge Judith G. Dein : Status Conference held on 3/7/2007. Pro Se Devine and Attorney Klein report current case status; Parties execute consent form and USMJ Dein sets bench trial for 4/9/07 @ 10:00am and 4/13/07 @ 10:00am. (Court Reporter DR.) (Quinn, Thomas) (Entered: 03/09/2007)
03/07/2007	• 40	CONSENT to Jurisdiction by US Magistrate Judge by Christopher M. Devine, Stop and Shop Companies, Inc... (Filo, Jennifer) (Entered: 03/12/2007)
03/09/2007	• 41	Judge Nancy Gertner : ORDER of Reference entered. (Filo, Jennifer) (Entered: 03/12/2007)
03/29/2007	• 42	PRETRIAL BRIEF by Christopher M. Devine. (Dambrosio, Jolyne) (Entered: 03/30/2007)
03/30/2007	• 43	MOTION in Limine by Christopher M. Devine.(Dambrosio, Jolyne) (Entered: 03/30/2007)
04/02/2007	• 44	PRETRIAL MEMORANDUM by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 04/02/2007)
04/05/2007	• 45	<i>Supplement to Defendant's Pre-Trial Memorandum Exhibit List (identifying one additional exhibit - Exhibit 11)</i> by Stop and Shop Companies, Inc... (Klein, Daniel) (Entered: 04/05/2007)
04/05/2007	• 46	<i>Second Supplement to Defendant's Pre-Trial Memorandum Exhibit List (addition of two additional exhibits)</i> by Stop and Shop Companies, Inc... (Klein, Daniel) (Entered: 04/05/2007)
04/06/2007	• 47	NOTICE of Appearance by Catherine V. Meek on behalf of Stop and Shop Companies, Inc. (Meek, Catherine) (Entered: 04/06/2007)
04/06/2007	• 48	RESPONSE TO DEFENDANT'S PRETRIAL MEMORANDUM by Christopher M. Devine. (Dambrosio, Jolyne) (Entered: 04/06/2007)
04/09/2007	•	Clerk's Notes for proceedings held before Judge Judith G. Dein : Bench Trial held on 4/9/2007. Pro Se Devine and Attorneys Klien and Meek; Openings statements by Devine and Attorney Klien; Plaintiff's case in chief begins and calls witness #1(Robert Slarve) direct exam; cross exam; plaintiff calls witness #2(Sorifina, Dianne) direct exam, cross exam; plaintiff calls witness #3(Cabrall, Fatama) direct exam, cross exam; Exhibits 1-8 marksed and admitted; court recesses for today and will continue on 4/13/09 @ 10:00am. (Court Reporter Cloonan, Marie.) (Quinn, Thomas) (Entered: 04/19/2007)
04/13/2007	•	Clerk's Notes for proceedings held before Judge Judith G. Dein : Bench Trial held on 4/13/2007. Plaintiff Pro Se Devine evidence continues; witness #4(Devine, Christopher) direct exam; cross exam by Attorney Klein; plaintiff rests his case; Defendant files Rule 52(c) motion; USMJ Dein hears arguments and defers ruling on the motion; Defendant's case in chief begins and recalls witness #3(Cabrall, Fatima) direct exam; cross

		exam; defendant recalls witness #1(Slarve, Robert) direct exam; cross exam; exhibits 9-12 marked and admitted into evidence; defendant rests his case; closing arguments; USMJ Dein invites the parties to file proposed findings of fact after review of transcript. (Court Reporter Cloonan, Marie.) (Quinn, Thomas) (Entered: 04/19/2007)
04/13/2007	•49	MOTION for Judgment on Partial Findings by Stop and Shop Companies, Inc..(Quinn, Thomas) (Entered: 04/19/2007)
04/13/2007	•50	MEMORANDUM in Support re 49 MOTION for Judgment on Partial Findings filed by Stop and Shop Companies, Inc.. (Quinn, Thomas) (Entered: 04/19/2007)
05/18/2007	•51	TRANSCRIPT of Bench Trial - Day One held on April 9, 2007 before Judge Dein. Court Reporter: Marie L. Cloonan. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/439-7086 or the Clerk's Office. (Scalfani, Deborah) (Entered: 05/18/2007)
05/18/2007	•52	TRANSCRIPT of Bench Trial Day Two held on April 13, 2007 before Judge Dein. Court Reporter: Marie L. Cloonan. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/439-7086 or the Clerk's Office. (Scalfani, Deborah) (Entered: 05/18/2007)
06/01/2007	•53	Emergency MOTION for Extension of Time to 06/08/2007 to File <i>Post-Trial Brief</i> by Stop and Shop Companies, Inc..(Meek, Catherine) (Entered: 06/01/2007)
06/04/2007	•	Judge Judith G. Dein : Electronic ORDER entered granting 53 Defendant's Motion for Extension of Time to 06/08/2007 to File Post-Trial Brief. Plaintiff shall have until 6/22/07 to file his Post-Trial Brief. (Dambrosio, Jolyne) (Entered: 06/04/2007)
06/04/2007	•54	POST TRIAL BRIEF (Partial) by Christopher M. Devine. (Dambrosio, Jolyne) (Entered: 06/04/2007)
06/04/2007	•55	Plaintiff's CONTINUED POST TRIAL BRIEF. (Dambrosio, Jolyne) (Entered: 06/05/2007)
06/08/2007	•56	TRIAL BRIEF ( <i>Defendant's Post-Trial Brief</i> ) by Stop and Shop Companies, Inc.. (Klein, Daniel) (Entered: 06/08/2007)
10/10/2007	•57	Letter/request (non-motion) from Plaintiff. (Dambrosio, Jolyne) (Entered: 10/10/2007)
10/12/2007	•58	Judge Judith G. Dein : ORDER entered. FINDINGS OF FACT AND RULINGS OF LAW. Judgment is entered in favor of the Defendant. (Dambrosio, Jolyne) (Entered: 10/12/2007)
11/08/2007	•59	NOTICE OF APPEAL as to 58 Findings of Fact & Conclusions of Law by Christopher M. Devine. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at

		http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 11/28/2007. (Dambrosio, Jolyne) (Entered: 11/08/2007)
11/08/2007	60	MOTION for Leave to Appeal in forma pauperis by Christopher M. Devine. (Affidavit to Accompany Motion for Leave to Appeal in Forma Pauperis used by the First Circuit sent to Plaintiff today.) (Dambrosio, Jolyne) (Entered: 11/08/2007)